IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 687 of 2007(F)
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PETITIONER:
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M.ABBAS,
S/O.E.MOIDEEN PICHAI, AGED 40, L.P.S.A.(TAMIL),
GOVERNMENT L.P.SCHOOL CHOOTTUPARA,
IDUKKI.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:
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1. THE DEPUTY DIRECTOR OF EDUCATION,
IDUKKI.

2. THE ASSISTANT EDUCATIONAL OFFICER,
PEERUMED.

3. THE HEADMISTRESS,
GOVT.L.P.SCHOOL, CHOOTTUPARA, KUMILY,
IDUKKI.

4. JIBI PAUL,
SENIOR ASSISTANT AND FORMER STAFF SECRETARY,
GOVT. L.P.SCHOOL CHOOTUPARA, IDUKKI.

BY GOVERNMENT PLEADER SRI. A.J. VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.687/07

APPENDIX

PETITIONER'S EXHIBITS:

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|---|---|
| EXT.P1 | COPY OF THE ORDER NO.A2/2149/06 DT. 29.12.06 ISSUED BY THE 1ST RESPONDENT |
| EXT.P2 | COPY OF THE LETTER DT. 4.4.06 ISSUED BY THE 2ND RESPONDENT TO THE 3RD RESPONDENT |
| EXT.P3 | COPY OF THE RELEVANT PORTION OF THE NOTE BOOK CONTAINING THE DETAILS OF COLLECTION DULY SIGNED BY THE 4TH RESPONDENT |
| EXT.P4 | COPY OF THE COMPLAINT FILED BY THE PARENTS OF THE STUDENTS BEFORE THE 1ST RESPONDENT |
| EXT.P5 | COPY OF THE COMPLAINT SUBMITTED BY THE PARENTS OF STUDENTS BEFORE THE 1ST RESPONDENT |
| EXT.P6 | COPY OF THE REQUEST DT. 10.1.07 SUBMITTED BY THE PETITIONER BEFORE THE DEPUTY DIRECTOR OF EDUCATION, IDUKKI AT THODUPUZHA. |

PA TO JUDGE.

/TRUE COPY/

**A.K. BASHEER, J.**

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**W.P.(C). NO. 687 OF 2007**

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Dated this the 18th day of June, 2007

**J U D G M E N T**

Petitioner, who was working as Lower Primary School Assistant (Tamil) in Government L.P. School, Chottupara, was served with Ext.P1 order of transfer directing him to assume charge in Government L.P. School, Kottamala with immediate effect.

2. When this writ petition came up for admission on June 5, 2007, an interim direction was issued not to relieve the petitioner. It is the admitted position that petitioner is even now continuing at Chottupara pursuant to the direction issued by this Court.

3. Learned Government Pleader has made available the relevant file from which it is seen that Ext.P1 order of transfer was issued on the basis of a report submitted by the Assistant Educational Officer, Peerumed. The allegation against the petitioner appears to be that he had tried to create rift among the teachers and parents encouraging linguistic bias. I have carefully perused the statements given by the Headmistress, teachers of the school and the former and present president of the Parent Teachers' Association before the officer of the Department. The Headmistress stated that after she assumed charge in the school she had found the petitioner to be co-operative. Smt. Jibi Paul, another teacher in

the school, had made a request to the Officer to ensure that there was no recurrence of any untoward behaviour from the petitioner. She further stated that she was prepared to do her part in creating a good atmosphere in the school. Similarly, two other teachers namely V.Roy and Smt. Sudha P.S. had also requested the Officer to ensure that the petitioner is dissuaded from any activity which may affect the smooth functioning of the school. The former and the present P.T.A. Presidents had also requested the Officer to ensure that petitioner was persuaded not to indulge in any similar activities. In his statement petitioner had informed the Officer that he had taken exception to the action of some of his colleagues who had put their wards in a nearby English Medium school and that may have been the reason why some of the teachers had turned against him.

4. I refrain from making any observation on the statements made by the teachers and the PTA Presidents as well as by the petitioner himself. Having gone through the statements and the other materials available in the file, I am of the view that petitioner can be granted a further opportunity to mend his ways if the Department is of the view that his conduct in the past was not conducive enough for the smooth functioning of the school. I am persuaded to take this view particularly since, there is no serious allegation as such against the petitioner apart from what has been generally stated by some of his colleagues before the officer. None of the teachers has stated that petitioner was trying to create a linguistic

bias among the parents and teachers. One and only specific act of the petitioner referred to is that he had tried to persuade some of the parents not to send their wards for a picnic. Petitioner's teaching skills have not been disputed. His conduct and character are also not called in question. Nothing is discernible from the file as to how the petitioner tried to create a linguistic bias among the teachers and parents.

5. In the peculiar facts and circumstances, petitioner is entitled to get the benefit of doubt. Learned counsel submits that petitioner will be careful to avoid any such controversy in future.

Therefore, Ext.P1 order is quashed. However, it will be open to the Department to review the situation and take an appropriate decision, if it is found that the conduct of the petitioner is not conducive enough for his continuance in the school.

The writ petition is allowed.

**A.K. BASHEER, JUDGE**

vps

**A.K. BASHEER, JUDGE**

**OP NO.20954/00**

**JUDGMENT**

**1ST MARCH, 2007**